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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/973,512	10/09/2001	Toru Mineyama	09812.0172-00000	6341

22852 7590 01/05/2010

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EXAMINER	
VAN BRAMER, JOHN W	

ART UNIT	PAPER NUMBER
3622	

MAIL DATE	DELIVERY MODE
01/05/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/973,512	MINEYAMA ET AL.	
	Examiner	Art Unit	
	JOHN VAN BRAMER	3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *24 August 2009*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,9,17,19,20,27 and 30-34* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,9,17,19,20,27 and 30-34* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Response to Amendment

1. The amendment filed on August 24, 2009, and the RCE filed on March 12, 2009, cancelled claims 28 and 29. Claims 1, 9, 17 and 31 were amended and no new claims were added. Thus the currently pending claims addressed below are claims 1, 9, 17, 19, 20, 27, and 30-34.

Claim Rejections - 35 USC § 112

2. The amendment filed on August 24, 2009 overcomes the 35 U.S.C. 112 first paragraph rejection originally raised in the office action dated June 27, 2008. Thus the examiner hereby withdraws the rejection.

3. rejection of claim 19 is maintained. The applicant's specification does not describe the programs that the first viewer "absolutely wishes to view". The cited passage of the applicant's specification (page 43) describes the user inputting information regarding programs that the user wants to view without failure and calling these groups an "absolute viewing program group". Since claim 1, from which claim 19 depends discloses that the reorganization of the second electronic television programming guide is done in accordance with the fist viewer tendency information which is generated on the basis of a viewing log that stores information about programs viewed on the terminal apparatus, but does not indicate that the first viewer inputs

information regarding an “absolute viewing program group” the applicants recitation in claim 19 that the second programming guide includes a group of programs that the first viewer absolutely wishes to view is not supported in the specification. The examiner suggests, amending claim 1 to include the input of such information and generating the second programming guide based on both the viewing log and the “absolute viewing program group” that is input directly by the first viewer. The examiner also suggests using the actual terms found within the specification such as "wants to view without failure" instead of "absolutely wishes to view".

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, 9, 17, 19, 20 and 30-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ismail et al. (U.S. Patent Number: 6,614,987) in view of Cannon (U.S. Patent Number: 6,029,176)

Claims 1, 9 and 17: Ismail discloses a server operational expenses collecting method, a server, a computer-readable medium comprising:

a. Storing data in a program viewing log reflecting a first duration of time that a first viewer viewed a first program, the first program corresponding to a first program category from a plurality of program categories. (Col 1, lines 54-67; Col 2, lines 39-51; Col 3, lines 43-48; Col 4, lines 12-27; Col 10, line 63 through Col 11, line 26; and Col 11, lines 36-49)

b. Comparing the duration of time the first viewer viewed the first program to a threshold duration particular to a first program category. (Col 10, line 63 through Col 11, line 26; and Col 11, lines 36-49)

c. Generating first viewer tendency information reflecting whether the duration of time the first viewer viewed the first program exceeds the threshold duration. (Col 8, lines 21-46; Col 10, line 63 through Col 11, line 26; and Col 11, lines 36-49)

d. Reorganizing a first electronic television program guide into a second electronic television programming guide tailored to the first viewer, the reorganizing being done in accordance with the first viewer tendency information. (Col 2, lines 39-51; and Col 131, lines 17-27)

e. Generating customer analysis information based on the first viewer tendency information. (Col 8, lines 21-46; Col 10, line 63 through Col 11, line 26; and Col 11, lines 36-49)

While Ismail does not specifically state that it provides the customer analysis information to an advertiser or collects expenses for the provision of customer analysis information from the advertiser, the analogous art of Canon (U.S. Patent Number: 6,029,176) teaches that it is well known to provide television viewing habit

information to advertisers and to charge advertisers for providing them with such information (Col 2, lines 1-48). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the customer analysis information to the advertiser for a fee. The rational for doing so is that common sense dictates that the monitoring and gathering of such information is costly and that one would use commonly known methods for generating a revenue stream to help offset said cost since selling the gathered information to advertisers is one of a limited number of predictable methods for generating a revenue from the gathered information. Additionally, one would be motivated to provide such information to advertisers in order to provide advertisers with effective tools for real-time response to questions about viewing habits and to help them to determine or estimate the probable effectiveness of a given advertising strategy (Canon: Col 2, lines 1-48)

Claim 19: Ismail and Canon disclose the server operational expenses collecting method according to claim 1, wherein the second electronic programming guide includes an absolute viewing program group of programs input by the first viewer. (Ismail: Col 10, lines1-31)

Claim 20: Ismail and Canon disclose the server operational expenses collecting method according to claim 1 wherein the second electronic programming guide organizes programs into virtual channels, each virtual channel including programs

from a plurality of program channel frequency bands. (Ismail: Col 1, lines 54-67; Col 2, lines 39-51; Col 3, lines 43-48; Col 4, lines 12-27; Col 10, line 63 through Col 11, line 26; and Col 11, lines 36-49)

Claim 30: Ismail and Canon disclose the method according to claim 1. While Ismail and Canon do not specifically state the first program category is news, a second one of the program categories is drama, and the drama category has corresponding threshold duration that is longer than the threshold duration for the news category, Ismail does disclose that the duration of time a viewer watches each program and or category is recorded and indicates that the duration for threshold can be set based on the users preferences in Col 4, lines 12-27; Col 6, lines 52-67; and Col 10, line 63 through Col 11, line 49. It would have been obvious to one of ordinary skill in the art at the time the invention was made that programs with shorter duration, such as news program would require a lower threshold than programs such as dramatic movies which have a longer duration. The rational for such a lower threshold is that common sense dictates that a threshold for a 30 minute program would be less than a threshold for a 2 hour movie in order to ensure that that majority of the program was indeed viewed by the viewer.

Claim 31: Ismail and Cannon disclose the method of claim 1, wherein the first viewer tendency information includes values for titles, categories, and keywords of the programs viewed by the first viewer. (Ismail: Col 5, line 19 through Col 6, line 34)

Claim 32: Ismail and Cannon disclose the method of claim 31, further comprising providing the first viewer with a button for inputting a program rating for the first program. (Ismail: Col 10, lines 15-31)

Claim 33: Ismail and Cannon disclose the method of claim 32, further comprising incrementing the value for the title, category, and the keyword of a program being watched when the viewer presses the button. (Ismail: Col 10, lines 15-31; and Col 12, lines 44-67)

Claim 34: Ismail and Cannon disclose the method of claim 33, further comprising using the value for the title, the category, and the keyword of the first program when the first viewer presses the button to determine other programs to include in virtual channels in the second electronic television programming guide. (Ismail: Col 10, lines 15-31; Col 10, line 63 through Col 11, line 49; Col 12, lines 44-67; and Col 13, lines 17-27)

6. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ismail (U.S. Patent Number: 6,614,987) in view of Cannon (U.S. Patent Number: 6,029,176) as applied to claim 1 above, and further in view of Williams et al. (U.S. Patent Number: 5,977,964)

Claim 27: Ismail and Cannon disclose the method according to claim 1, wherein the program viewing log includes program titles, program categories, and program keywords (Ismail: Col 4, line 58 through Col 6, line 34). While Ismail and Cannon do not specifically that the date and day of the week on which programs viewed by the first viewer were broadcast, Ismail discloses that a start time is included in the category data in Col 5, lines 19-25 and that the user can identify program to watch based on a weekly basis or when broadcast basis in Col 3, lines 26-32 or by date, time and channel in Col 10, lines 15-31. Thus such information is available in the invention disclosed by Ismail. The analogous art of Willaims discloses gathering viewer habit information including the day and time in which a user views programming (Williams: Col 7, line 31 through Col 8, line 3; Col 12, lines 40-44; and Col 15, line 64 through Col 16, line 18). Thus it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the date (which includes the day of the week) on which programs were viewed. The rational for including the date is that the date and day of the week are one of a limited number of predictable ways in which upcoming shows and television series can be identified for determine a start time for upcoming programs with similar attributes that match a users preferences.

Response to Arguments

7. Applicant's arguments with respect to claims 1, 9, 17, 19, 20, 27, and 30-34 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOHN VAN BRAMER whose telephone number is (571)272-8198. The examiner can normally be reached on 6am - 4pm Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric Stamber can be reached on (571) 272-6724. The fax

phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

John Van Bramer
/John Van Bramer/
Examiner, Art Unit 3622